

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 239B.4(6) and 249A.4, the Department of Human Services proposes to amend Chapter 40, "Application for Aid," Chapter 41, "Granting Assistance," Chapter 43, "Alternate Payees," Chapter 45, "Payment," Chapter 46, "Overpayment Recovery," Chapter 75, "Conditions of Eligibility," and Chapter 76, "Application and Investigation," Iowa Administrative Code.

The proposed amendments:

- Specify that for Medicaid and the Family Investment Program (FIP), when both parents or a parent and a stepparent are in the home, either one may sign the application, the review forms, and the statement of citizenship form and attest to the information for the entire household. Currently, both are required to sign.
- Remove the requirement that the Medicaid or FIP applicant or participant sign Form 470-0169, Requirements of Support Enforcement. Because this is not an eligibility requirement and there has been no penalty for failing to sign the form, the requirement is unnecessary.
- Remove obsolete retrospective budgeting terms.
- Change the terms "county office" and "local office" to "department" or "income maintenance unit" to coordinate with implementation of the Income Maintenance Customer Call Center.
- Change the term "Medicaid recipient" to "Medicaid member" to reflect the philosophy of the Iowa Medicaid Enterprise.

These changes eliminate unnecessary paperwork and reduce delays in determining eligibility for Medicaid and FIP. The changes also align procedures across programs, as Food Assistance already allows one adult to sign forms and attest to information for the entire household. Requiring two signatures is unnecessary and is impracticable for applications completed and submitted electronically.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before September 17, 2008. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319 0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code chapters 239B and 249A.

The following amendments are proposed.

ITEM 1. Amend rule 441—40.22(239B) as follows:

441—40.22(239B) Application. The application for the family investment program shall be submitted on the Health and Financial Support Application, Form 470-0462 or Form 470-0466 (Spanish). ~~Form 470-0462 or Form 470-0466 (Spanish)~~ The application shall be signed by the applicant, the applicant's authorized representative or, when the applicant is incompetent or incapacitated, someone acting responsibly on the applicant's behalf. When both parents, or a parent and a stepparent, are in the home, both shall and eligibility is determined on a family or household basis, one parent or stepparent may sign the application and attest to the information for the assistance unit.

40.22(1) No change.

40.22(2) An applicant may be assisted by other individuals in the application process; the client may be accompanied by such individuals in contact with the ~~local office~~ department, and when so accompanied, may also be represented by them. When the applicant has a guardian, the guardian shall participate in the application process.

40.22(3) The applicant shall immediately be given an application form to complete. When the applicant requests that the ~~forms~~ form be mailed, the ~~local office~~ department shall send the necessary forms in the next outgoing mail.

40.22(4) No change.

40.22(5) Reinstatement.

a. and *b.* No change.

c. When eligibility factors are met, assistance shall be reinstated when one of the following completed forms is received by the ~~local office~~ department within ten days of the date a cancellation notice is sent to the recipient because the form was incomplete or not returned:

(1) Public Assistance Eligibility Report, Form 470-0454, 470-0455, or 470-3719(S).

~~(2) Combined PAER/FAIR, Form 470-4387, 470-4387(M), or 470-4387(S).~~

~~(3)~~ **(2)** Review/Recertification Eligibility Document, Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M).

d. No change.

This rule is intended to implement Iowa Code sections 239B.3, 239B.5 and 239B.6.

ITEM 2. Amend rule 441—40.23(239B) as follows:

441—40.23(239B) Date of application. The date of application is the date an identifiable Health and Financial Support Application, Form 470-0462 or Form 470-0466 (Spanish), is received ~~in any local office by the department~~. When an application is delivered to a closed office, it will be considered received on the first day that is not a weekend or state holiday following the day that the office was last open.

40.23(1) The date of application is also the date an identifiable application is received by a designated worker who is in any disproportionate share hospital, federally qualified health center or other facility in which outstationing activities are provided. The hospital, health center or other facility will forward the application to the department office that is responsible for the completion of the eligibility determination.

40.23(2) An identifiable application is an application containing a legible name and address that has been signed.

40.23(3) A new application is not required when adding a person to an existing eligible group. This person is considered to be included in the application that established the existing eligible group. However, in these instances, the date of application to add a person is the date the change is reported. When it is reported that a person is anticipated to enter the home, the date of application to add the person shall be the date of the report.

a. In those instances where a person previously excluded from the eligible group as described at 441—subrule 41.27(11) is to be added to the eligible group, the date of application to add the person is the date the person indicated willingness to cooperate.

b. EXCEPTIONS:

(1) When adding a person who was previously excluded from the eligible group for failing to comply with 441—subrule 41.22(13), the date of application to add the person is the date the social security number or proof of application for a social security number is provided.

(2) When adding a person who was previously excluded from the eligible group as described at 441—~~subrules~~ subrule 41.23(5), or 41.25(5) ~~and 46.28(2) and~~ or rule 441—46.29(239B), the date of application to add the person is the first day after the period of ineligibility has ended.

(3) When adding a person who was previously excluded from the eligible group as described at 441—subrule 41.24(8), the date of application to add the person is the date the person signs a family investment agreement.

This rule is intended to implement Iowa Code section 239B.2.

ITEM 3. Amend rule 441—40.24(239B) as follows:

441—40.24(239B) Procedure with application.

40.24(1) The decision with respect to eligibility shall be based primarily on information furnished by the applicant.

a. No change.

b. The ~~local office~~ department shall notify the applicant in writing of additional information or verification that is required to establish eligibility for assistance. Failure of the applicant to supply the information or verification, or refusal by the applicant to authorize the ~~local office~~ department to secure the information or verification from other sources, shall serve as a basis for denial of assistance.

(1) Five working days shall be considered as a reasonable period for the applicant to supply the required information or verification. The ~~local office~~ department shall extend the deadline when the applicant requests an extension because the applicant is making every effort to supply the information or verification but is unable to do so.

(2) No change.

c. No change.

40.24(2) In processing an application, the ~~local office~~ department or the designated worker as described in ~~rule 441—40.23(239B)~~ subrule 40.23(1) who is in a disproportionate share hospital, federally qualified health center, or other facility in which outstationing activities are provided shall conduct at least one face-to-face interview with the applicant before approval of the initial application for assistance and a face-to-face or telephone interview before approval of any subsequent application for assistance.

a. to c. No change.

40.24(3) The applicant who is subject to quarterly reporting as described in 40.27(1) shall become responsible for completing Form 470-0454, 470-0455, or 470-3719(S), Public Assistance Eligibility Report, ~~or Form 470-4387, 470-4387(M), or 470-4387(S), Combined PAER/FAIR,~~ after the time of the interview. The report form shall be issued and returned according to the requirements in 40.27(4) “b.”

a. and b. No change.

c. The ~~local office~~ department shall explain to the applicant at the time of the interview the applicant’s responsibility to complete and return the report form.

40.24(4) The decision with respect to eligibility shall be based on the applicant’s eligibility or ineligibility on the date the ~~local office~~ department enters all eligibility information into the department’s computer system, except as described in 40.24(3). The applicant shall become a recipient on the date ~~the local office enters all eligibility information~~ is entered into the department’s computer system and the computer system determines the applicant is eligible for aid.

This rule is intended to implement Iowa Code sections 239B.4, 239B.5 and 239B.6.

ITEM 4. Strike the words “local office” wherever they appear in rule **441—40.25(239B)** and insert the word “department” in lieu thereof.

ITEM 5. Amend rule 441—40.27(239B) as follows:

441—40.27(239B) Continuing eligibility.

40.27(1) Eligibility factors shall be reviewed at least every six months for the family investment program. A semiannual review shall be conducted using information contained in and verification supplied with Form 470-0454, 470-0455 or 470-3719(S), Public Assistance Eligibility Report, ~~or Combined PAER/FAIR, Form 470-4387, 470-4387(M), or 470-4387(S).~~ An interview shall be conducted at least annually at the time of a review using information contained in and verification supplied with Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document. When the client has completed a Health and Financial Support Application, Form 470-0462 or 470-0466 (Spanish), for another purpose required by the department, this form may be used as the review document for the semiannual or annual review.

a. No change.

b. The assistance unit subject to quarterly reporting shall complete a Public Assistance Eligibility Report, Form 470-0454, 470-0455, or 470-3719(S), ~~or Combined PAER/FAIR, Form 470-4387, 470-4387(M), or 470-4387(S),~~ for each quarter, unless the assistance unit is required to complete Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document, for that month. The payee, the payee's authorized representative, or, when the payee is incompetent or incapacitated, someone acting responsibly on the payee's behalf shall sign the Public Assistance Eligibility Report. When both parents or a parent and a stepparent are in the home, ~~both shall~~ and eligibility is determined on a family or household basis, either parent or the stepparent may sign the form and attest to the information for the assistance unit.

40.27(2) No change.

40.27(3) Information for semiannual reviews shall be submitted on Form 470-0454, 470-0455, or 470-3719(S), Public Assistance Eligibility Report, ~~or Form 470-4387, 470-4387(M), or 470-4387(S), Combined PAER/FAIR.~~ Information for the annual determination interview shall be submitted on Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document.

a. When the client has completed Form 470-0462 or Form 470-0466 (Spanish), Health and Financial Support Application, for another purpose, this form may be used as the quarterly report or as the review document for the semiannual or annual review.

~~a. b.~~ The review form shall be signed by the payee, the payee's authorized representative, or, when the payee is incompetent or incapacitated, someone acting responsibly on the payee's behalf.

~~b. —When both parents or a parent and a stepparent are in the home, both shall sign the Public Assistance Eligibility Report, the Combined PAER/FAIR, the Review/Recertification Eligibility Document, or the Health and Financial Support Application.~~

40.27(4) Responsibilities of recipients. For the purposes of this subrule, recipients shall include persons who received assistance subject to recoupment because the persons were ineligible.

a. No change.

b. The recipient shall complete Form 470-0454, 470-0455, or 470-3719(S), Public Assistance Eligibility Report, ~~or Form 470-4387, 470-4387(M), or 470-4387(S), Combined PAER/FAIR,~~ or Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document, when requested by the local office department in accordance with these rules. The ~~form~~ department shall ~~be supplied~~ supply the form as needed to the recipient ~~by the department.~~ The department shall pay the cost of postage to return the form.

(1) When the form is issued in the department's regular end-of-month mailing, the recipient shall return the completed form to the local office department by the fifth calendar day of the following month. When the form is not issued in the department's regular end-of-month mailing, the recipient shall return the completed form to the local office department by the seventh day ~~of the month~~ after the date it is mailed by the department.

(2) The local office department shall supply the recipient with Form 470-0454, 470-0455, or 470-3719(S), Public Assistance Eligibility Report, ~~or Form 470-4387, 470-4387(M), 470-4387(S), Combined PAER/FAIR,~~ or Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document, on request.

(3) No change.

c. The recipient shall supply, insofar as the recipient is able, additional information needed to establish eligibility and the amount of the family investment program grant within five working days from the date a written request is mailed by the local office department to the recipient's current mailing address or given to the recipient. The local office department shall extend the deadline when the recipient requests an extension because the recipient is making every effort to supply the information or verification but is unable to do so.

(1) "Supply" shall mean that the requested information is received by the department by the specified due date.

(2) The recipient shall give written permission for release of information when the recipient is unable to furnish information needed to establish eligibility and the amount of the family investment program grant.

(3) Failure to supply the information or refusal to authorize the ~~local office~~ department to secure the information from other sources shall serve as a basis for cancellation of assistance.

d. to g. No change.

40.27(5) After assistance has been approved, eligibility for continuing assistance and the amount of the grant shall be effective as of the first of each month. Any change affecting eligibility or benefits reported during a month shall be effective the first day of the next calendar month except as follows:

a. and b. No change.

c. When the recipient reports a change in income or circumstances timely, as defined in 40.24(1) or 40.27(4), the department shall determine prospective eligibility and the grant amount for the following month based on the change.

(1) A payment adjustment shall be made when indicated.

(2) Recoupment shall be made for any overpayment, with one exception. When a change in income is timely reported by a recipient and timely acted upon by the ~~local office~~ department, but the timely notice, as required by 441—7.7(17A), requires the action be delayed until the second calendar month following the month of change, and eligibility continues, recoupment shall not be made.

d. to g. No change.

This rule is intended to implement Iowa Code sections 239B.2, 239B.3, 239B.5, 239B.6 and 239B.18.

ITEM 6. Strike the words “local office” wherever they appear in rule **441—40.28(239B)** and insert the word “department” in lieu thereof.

ITEM 7. Amend rule 441—41.22(239B) as follows:

441—41.22(239B) Eligibility factors specific to payee.

41.22(1) to 41.22(3) No change.

41.22(4) *Liability of relatives.* All appropriate steps shall be taken to secure support from legally liable persons on behalf of all persons in the eligible group, including the establishment of paternity.

a. When necessary to establish eligibility, the ~~local office~~ income maintenance unit shall make the initial contact with the absent parent at the time of application. Subsequent contacts shall be made by the child support recovery unit.

b. When contact with the family investment program family or other sources of information ~~indicates~~ indicate that relatives other than parents and spouses of the eligible children are contributing toward the support of members of the eligible group, have contributed in the past, or are of such financial standing they might reasonably be expected to contribute, the ~~local office~~ income maintenance unit shall contact these persons to verify current contributions or arrange for contributions on a voluntary basis.

41.22(5) *Referral to child support recovery unit.* The ~~county office~~ income maintenance unit shall provide prompt notice to the child support recovery unit whenever assistance is furnished with respect to a child with a parent who is absent from the home or when any member of the eligible group is entitled to support payments.

a. A referral to the child support recovery unit shall not be made when a parent’s absence is occasioned solely by reason of the performance of active duty in the uniformed services of the United States. “Uniformed service” means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration, or Public Health Service of the United States.

b. “Prompt notice” means within two working days of the date assistance is approved.

41.22(6) *Cooperation in obtaining support.* Each applicant for or recipient of the family investment program shall cooperate with the department in establishing paternity and securing support for persons whose needs are included in the assistance grant, except when good cause as defined in 41.22(8) for refusal to cooperate is established.

a. No change.

b. Cooperation is defined as including the following actions by the applicant or recipient:

(1) Appearing at the ~~local office of the income maintenance unit~~ or the child support recovery unit to provide verbal or written information or documentary evidence known to, possessed by, or reasonably obtained by the applicant or recipient that is relevant to achieving the objectives of the child support recovery program.

(2) to (5) No change.

c. The applicant or recipient shall cooperate with the ~~local office income maintenance unit~~ in supplying information with respect to the absent parent, the receipt of support, and the establishment of paternity, to the extent necessary to establish eligibility for assistance and permit an appropriate referral to the child support recovery unit.

d. No change.

e. In the circumstance as described at paragraph "b," subparagraph (4), the income maintenance unit ~~in the county office~~ shall make the determination of whether or not the ~~client applicant or recipient~~ has cooperated. In all other instances, the child support recovery unit (~~CSRU~~) shall make the determination of whether the ~~client applicant or recipient~~ has cooperated. ~~CSRU~~ The child support recovery unit delegates the income maintenance unit ~~in the county office~~ to make this determination for applicants.

f. No change.

41.22(7) Assignment of support payments. Each applicant for or recipient of assistance shall assign to the department any rights to support from any other person as that the applicant or recipient may have. ~~This~~ These shall include rights to support in the applicant's or recipient's own behalf or in behalf of any other family member for whom the applicant or recipient is applying or receiving assistance and which have accrued at the time the assignment is executed. An assignment is effective the same date ~~the county office enters~~ all eligibility information is entered into the department's computer system and is effective for the entire period for which assistance is paid.

~~a. — Rescinded IAB 11/8/06, effective 1/1/07.~~

~~b. — Rescinded IAB 7/1/98, effective 7/1/98.~~

~~c. — Reserved.~~

~~d. — Reserved.~~

~~e. — Rescinded IAB 12/3/97, effective 2/1/98.~~

41.22(8) Good cause for refusal to cooperate. Good cause shall exist when it is determined that cooperation in establishing paternity and securing support is against the best interests of the child.

a. The ~~local office income maintenance unit~~ shall determine that cooperation is against the child's best interest when the applicant's or recipient's cooperation in establishing paternity or securing support is reasonably anticipated to result in:

(1) to (4) No change.

b. The ~~local office income maintenance unit~~ shall determine that cooperation is against the child's best interest when at least one of the following circumstances exists, and the ~~local office income maintenance unit~~ believes that because of the existence of that circumstance, in the particular case, proceeding to establish paternity or secure support would be detrimental to the child for whom support would be sought.

(1) to (3) No change.

c. and d. No change.

41.22(9) Claiming good cause. Each applicant for or recipient of the family investment program who is required to cooperate with the child support recovery unit shall have the opportunity to claim good cause for refusing to cooperate in establishing paternity or securing support payments.

a. ~~Prior to~~ Before requiring cooperation, the ~~county office income maintenance unit~~ shall notify the applicant or recipient ~~on using~~ on Form 470-0169, Requirements of Support Enforcement, of the right to claim good cause as an exception to the cooperation requirement and of all the requirements applicable to a good cause determination. ~~One copy of this form shall be given to the applicant or recipient and one copy shall be signed by the applicant or recipient and the worker and filed in the case record.~~

b. The initial notice advising of the right to refuse to cooperate for good cause shall:

(1) to (3) No change.

(4) Advise the applicant or recipient that good cause for refusal to cooperate may be claimed; and that if the ~~local office~~ income maintenance unit determines, in accordance with these rules, that there is good cause, the applicant or recipient will be excused from the cooperation requirement.

(5) Advise the applicant or recipient that upon request, or following a claim of good cause, the ~~local office~~ income maintenance unit will provide further notice with additional details concerning good cause.

c. When the applicant or recipient makes a claim of good cause or requests additional information regarding the right to file a claim of good cause, the ~~county office~~ income maintenance unit shall issue a second notice, Form 470-0170, Requirements of Claiming Good Cause. ~~When the applicant or recipient chooses to~~ To claim good cause, the applicant or recipient shall sign and date Form 470-0170 ~~shall be signed and dated by the client and returned~~ return it to the ~~county office~~ income maintenance unit. This form:

(1) Indicates that the applicant or recipient must provide corroborative evidence of a good cause circumstance and must, when requested, furnish sufficient information to permit the ~~local office~~ income maintenance unit to investigate the circumstances.

(2) Informs the applicant or recipient that, upon request, the ~~local office~~ income maintenance unit will provide reasonable assistance in obtaining the corroborative evidence.

(3) Informs the applicant or recipient that on the basis of the corroborative evidence supplied and the ~~agency's department's~~ investigation when necessary, the ~~local office~~ income maintenance unit will determine whether cooperation would be against the best interest of the child for whom support would be sought.

(4) No change.

(5) Informs the applicant or recipient that the child support recovery unit may review the ~~local office's~~ income maintenance unit's findings and basis for a good cause determination and may participate in any hearings concerning the issue of good cause.

(6) Informs the applicant or recipient that the child support recovery unit may attempt to establish paternity and collect support in those cases where the ~~local office~~ income maintenance unit determines that this can be done without risk to the applicant or recipient if done without the applicant's or recipient's participation.

d. The applicant or recipient who refuses to cooperate and who claims to have good cause for refusing to cooperate has the burden of establishing the existence of a good cause circumstance. Failure to meet these requirements shall constitute a sufficient basis for the ~~local office~~ income maintenance unit to determine that good cause does not exist. The applicant or recipient shall:

(1) to (3) No change.

41.22(10) Determination of good cause. The ~~local office~~ income maintenance unit shall determine whether good cause exists for each applicant for or recipient of the family investment program who claims to have good cause.

a. The applicant or recipient shall be notified by the ~~local office~~ income maintenance unit of its determination that good cause does or does not exist. The determination shall:

(1) Be in writing.

(2) Contain the ~~local office's~~ income maintenance unit's findings and basis for determination.

(3) No change.

b. The determination of whether or not good cause exists shall be made within 45 days from the day the good cause claim is made. The ~~local office~~ income maintenance unit may exceed this time standard only when:

(1) The case record documents that the ~~office~~ income maintenance unit needs additional time because the information required to verify the claim cannot be obtained within the time standard, or

(2) No change.

c. When the ~~local office~~ income maintenance unit determines that good cause does not exist:

(1) and (2) No change.

d. The ~~local office~~ income maintenance unit shall make a good cause determination based on the corroborative evidence supplied by the applicant or recipient only after ~~it~~ the unit has examined the evidence and found that it actually verifies the good cause claim.

e. ~~Prior to~~ Before making a final determination of good cause for refusing to cooperate, the ~~local office~~ income maintenance unit shall:

(1) and (2) No change.

f. and g. No change.

h. The ~~local office~~ income maintenance unit shall:

(1) and (2) No change.

41.22(11) Proof of good cause. The applicant or recipient who claims good cause shall provide corroborative evidence within 20 days from the day the claim was made. In exceptional cases where the ~~local office~~ income maintenance unit determines that the applicant or recipient requires additional time because of the difficulty in obtaining the corroborative evidence, the ~~local office~~ income maintenance unit shall allow a reasonable additional period ~~of time~~ upon approval by the worker's immediate supervisor.

a. No change.

b. When, after examining the corroborative evidence submitted by the applicant or recipient, the ~~local office~~ income maintenance unit wishes to request additional corroborative evidence which is needed to permit a good cause determination, the ~~local office~~ income maintenance unit shall:

(1) and (2) No change.

c. When the applicant or recipient requests assistance in securing evidence, the ~~local office~~ income maintenance unit shall:

(1) and (2) No change.

d. When a claim is based on the applicant's or recipient's anticipation of physical harm and corroborative evidence is not submitted in support of the claim:

(1) The ~~local office~~ income maintenance unit will investigate the good cause claim when the ~~office unit~~ unit believes that the claim is credible without corroborative evidence and corroborative evidence is not available.

(2) Good cause will be found when the claimant's statement and investigation which is conducted satisfies the ~~office~~ income maintenance unit that the applicant or recipient has good cause for refusing to cooperate.

(3) No change.

e. The ~~local office~~ income maintenance unit may further verify the good cause claim when the applicant's or recipient's statement of the claim together with the corroborative evidence do not provide sufficient basis for making a determination. When the ~~local office~~ income maintenance unit determines that it is necessary, ~~it~~ the unit may conduct an investigation of good cause claims to determine that good cause does or does not exist.

f. When it conducts an investigation of a good cause claim, the ~~local office~~ income maintenance unit will:

(1) and (2) No change.

41.22(12) Enforcement without caretaker's cooperation. When the ~~local office~~ income maintenance unit makes a determination that good cause exists, ~~it~~ the unit shall also make a determination of whether or not child support enforcement can proceed without risk of harm to the child or caretaker relative when the enforcement or collection activities do not involve ~~their~~ the participation of the child or caretaker.

a. ~~Prior to making the determination, the~~ The child support recovery unit shall have an opportunity to review and comment on the findings and basis for the proposed determination, and the ~~local office~~ income maintenance unit shall consider any recommendation from the child support recovery unit.

b. The determination shall:

(1) ~~be~~ Be in writing,

(2) ~~contain~~ Contain the ~~local office's~~ income maintenance unit's findings and basis for determination, and

(3) ~~be~~ Be entered into the family investment program case record.

c. When the ~~local office~~ income maintenance unit excuses cooperation but determines that the child support recovery unit may proceed to establish paternity or enforce support, ~~if the income maintenance unit~~ will notify the applicant or recipient to enable the individual to withdraw the application for assistance or have the case closed.

41.22(13) to 41.22(17) No change.

41.22(18) *Determination of good cause for not living in the home of a parent or legal guardian.* The ~~county office~~ department shall determine whether good cause exists for each applicant or recipient who claims good cause.

a. The applicant or recipient shall be notified by the ~~county office~~ department of its determination that good cause does or does not exist. The determination shall:

- (1) Be in writing.
- (2) Contain the ~~county office's~~ department's findings and basis for determination.
- (3) Be entered in the family investment program case record.

b. When the ~~county office~~ department determines that good cause does not exist:

- (1) to (3) No change.

c. The ~~county office~~ department shall:

- (1) and (2) No change.

41.22(19) *Proof of good cause for not living in the home of a parent or legal guardian.* The applicant or recipient who claims good cause shall provide corroborative evidence to prove the good cause claim within the time frames described at 441—subrule 40.24(1) and paragraph 40.27(4)“c.”

a. No change.

b. When, after examining the corroborative evidence submitted by the applicant or recipient, the ~~county office~~ department wishes to request additional corroborative evidence which is needed to permit a good cause determination, the ~~county office~~ department shall:

- (1) and (2) No change.

c. When the applicant or recipient requests assistance in securing evidence, the ~~county office~~ department shall:

- (1) and (2) No change.

This rule is intended to implement Iowa Code chapter 239B.

ITEM 8. Amend subparagraph **41.23(5)“b”(1)** as follows:

~~(1) The applicant or, when the applicant is incompetent or incapacitated, someone acting responsibly on the applicant's behalf shall sign the form. When both parents are in the home, both shall sign a form attesting to their citizenship.~~

ITEM 9. Strike the words “county office” and “local office” wherever they appear in subrules **41.24(1)41.24(5)** and insert the word “department” in lieu thereof.

ITEM 10. Amend paragraph **41.26(8)“b”** as follows:

b. When the ~~local office~~ department questions whether the funds in a trust or conservatorship are available, ~~the local office shall refer the trust or conservatorship~~ shall be referred to the central office.

(1) When assets in the trust or conservatorship are not clearly available, central office staff may contact the trustee or conservator and request that the funds in the trust or conservatorship be made available for current support and maintenance. When the trustee or conservator chooses not to make the funds available, the department may petition the court to have the funds released either partially or in their entirety or as periodic income payments.

(2) Funds in a trust or conservatorship that are not clearly available shall be considered unavailable until the trustee, conservator or court actually makes the funds available. Payments received from the trust or conservatorship for basic or special needs are considered income.

ITEM 11. Strike the words “country office” and “local office” wherever they appear in rule **441—41.27(239B)** and insert the word “department” in lieu thereof.

ITEM 12. Amend subparagraph **41.27(9)“b”(1)** as follows:

(1) The ~~local office~~ department shall prospectively compute eligibility and benefits when a Public Assistance Eligibility Report, Form 470-0454, 470-0455, or 470-3719(S); ~~a Combined PAER/FAIR, Form 470-4387, 470-4387(M), or 470-4387(S);~~ or a Review/Recertification Eligibility Document, Form 470-2881, 470-2881(M), ~~or~~ 470-4083 (Spanish), or 470-4083(M), is completed as described in 441—40.27(239B). All countable earned and unearned income received by the eligible group during the previous 30 days shall be used to project future income. If the participant indicates that the 30-day period is not indicative of future income, income from a longer period or verification of anticipated income from the income source may be used to project future income.

ITEM 13. Amend subrule 41.27(11) as follows:

41.27(11) Restriction on diversion of income. No income may be diverted to meet the needs of a person living in the home who has been sanctioned under subrule 41.24(8) or 41.25(5), or who has been disqualified under subrule 41.25(10) or rule ~~441—46.28(239B)~~ or 441—46.29(239B), or who is required to be included in the eligible group according to 41.28(1) “a” and has failed to cooperate. This restriction applies to 41.27(4) “a” and 41.27(8).

ITEM 14. Amend subparagraph **41.30(3)“c”(2)** as follows:

(2) In families that request FIP beyond 60 months, ~~at~~ one of the adults as defined in subrule 41.30(1) shall sign the request. When the adult is incompetent or incapacitated, someone acting responsibly on the adult’s behalf may sign the request.

ITEM 15. Amend subrule 43.21(1) as follows:

43.21(1) When application is filed for the family investment program by a person under conservatorship or guardianship, a copy of the court order shall be secured by the ~~local office~~ department. Assistance payments shall be made to the conservator or guardian to be allocated for the support and care of the dependent child.

ITEM 16. Amend rule 441—45.22(239B) as follows:

441—45.22(239B) Return. Assistance warrants are not forwardable. When ~~they~~ warrants cannot be delivered by the post office, they shall be returned to ~~either the local office or to the central office~~ the department.

ITEM 17. Strike the words “local office” wherever they appear in paragraph **45.24(1)“a”** and insert the word “department” in lieu thereof.

ITEM 18. Amend rule 441—45.25(239B) as follows:

441—45.25(239B) Deceased payees. A retroactive corrective payment shall be made for deceased payees only when the payment was approved by the ~~local office prior to~~ department before the recipient’s death. Payment for a special need shall be made only when the payment is entered on the automated benefit calculation system ~~prior to~~ before the effective date of cancellation.

ITEM 19. Amend rule **441—46.21(239B)**, “Procedural error,” as follows:

“Procedural error” means a technical error that does not in and of itself result in an overpayment. Procedural errors include:

1. and 2. No change.
3. Failure of the ~~local office~~ department to conduct the interviews described in 441—subrules 40.24(2) and 40.27(1).
4. Failure to request a Public Assistance Eligibility Report, ~~a Combined PAER/FAIR,~~ or a Review/Recertification Eligibility Document at the time of a quarterly, semiannual, or annual review.
5. Failure of ~~local office~~ department staff to cancel the family investment program benefits when the client submits a Public Assistance Eligibility Report, ~~a Combined PAER/FAIR,~~ or a

Review/Recertification Eligibility Document that is not complete as defined in 441—paragraph 40.27(4)“b.” However, overpayments of grants as defined above based on incomplete reports are subject to recoupment.

ITEM 20. Amend rule 441—46.23(239B) as follows:

441—46.23(239B) Notification and appeals. All clients shall be notified by the department of inspections and appeals, as described at 441—subrule 7.5(6), when it is determined that an overpayment exists. Notification shall include the amount, date and reason for the overpayment. ~~The local office~~ department shall provide additional information regarding the computation of the overpayment upon the client’s request. The client may appeal the computation of the overpayment and any action to recover the overpayment through benefit reduction in accordance with 441—subrule 7.5(6).

ITEM 21. Amend subrule 46.27(2) as follows:

46.27(2) Referral. When the ~~local office~~ department determines that an overpayment exists, the case shall be referred to the department of inspections and appeals for investigation, recoupment, or referral for possible prosecution.

ITEM 22. Amend paragraphs ~~75.11(2)“b,” 75.11(2)“c” 75.11(2)“f”~~ as follows:

~~b. As a condition of eligibility, each recipient member shall complete and sign Form 470-2549, Statement of Citizenship Status, attesting to the recipient’s member’s citizenship or alien status. The form shall be signed by the recipient, or when the recipient member is incompetent or deceased, the form shall be signed by someone acting responsibly on the recipient’s member’s behalf. When both parents are in the home, both shall sign the form. An adult recipient shall sign the form for dependent children.~~

(1) As a condition of eligibility, all applicants for Medicaid shall attest to their citizenship status by signing the application form which contains the same declaration.

(2) As a condition of continued eligibility, ~~recipients of SSI-related Medicaid~~ members not actually receiving SSI who have been continuous ~~recipients~~ members since August 1, 1988, shall attest to their citizenship status by signing the application form which contains a similar declaration at time of review.

~~c. Except as provided in paragraph “f,” applicants or members who attest that they are citizens or nationals of the United States for whom an attestation of United States citizenship has been made pursuant to paragraph “b” shall present satisfactory documentation of citizenship or nationality as defined in paragraph “d” or “e.” An applicant or member shall have a reasonable period to obtain and provide proof of citizenship or nationality.~~

(1) to (3) No change.

~~f. A person who attests to status as a citizen or national of the United States for whom an attestation of United States citizenship has been made pursuant to paragraph “b” is not required to present documentation of citizenship or nationality for Medicaid eligibility if any of the following circumstances apply:~~

(1) to (6) No change.

ITEM 23. Amend rule 441—75.14(249A) as follows:

441—75.14(249A) Establishing paternity and obtaining support.

75.14(1) As a condition of eligibility, Medicaid applicants and ~~recipients of Medicaid~~ members in households with an absent parent shall cooperate in obtaining medical support for ~~the each~~ applicant or ~~recipient member~~ as well as for any other person in the household for whom Medicaid is requested and for whom the ~~person~~ applicant or member can legally assign rights for medical support, except when good cause as defined in subrule 75.14(8) for refusal to cooperate is established.

a. The applicant or ~~recipient~~ member shall cooperate in the following:

(1) and (2) No change.

(3) Obtaining medical support and payments for medical care for the applicant or ~~recipient~~ member and for a child for whom Medicaid is requested.

(4) No change.

b. Cooperation is defined as including the following actions by the applicant or recipient member:
(1) Appearing at the county office income maintenance unit or the child support recovery unit to provide verbal or written information or documentary evidence known to, possessed by or reasonably obtainable by the applicant or recipient member that is relevant to achieving the objectives of the child support recovery program.

(2) and (3) No change.

c. The applicant or recipient member shall cooperate with the county office department in supplying information with respect to the absent parent, the receipt of medical support or payments for medical care, and the establishment of paternity, to the extent necessary to establish eligibility for assistance and permit an appropriate referral to the child support recovery unit.

d. The applicant or recipient member shall cooperate with the child support recovery unit to the extent of supplying all known information and documents pertaining to the location of the absent parent and taking action as may be necessary to secure medical support and payments for medical care or to establish paternity. This includes completing and signing documents determined to be necessary by the state's attorney for any relevant judicial or administrative process.

e. The income maintenance unit ~~in the county office~~ shall make the determination of whether or not the client applicant or member has cooperated.

75.14(2) Failure of the applicant or recipient member to cooperate shall result in denial or cancellation of the person's Medicaid benefits. In family medical assistance program (FMAP)-related Medicaid cases, all deductions and disregards described at paragraphs 75.57(2) "a," "b," and "c" shall be allowed when otherwise applicable.

75.14(3) Each Medicaid applicant for or recipient of Medicaid member who is required to cooperate with the child support recovery unit shall have the opportunity to claim good cause for refusing to cooperate in establishing paternity or securing medical support and payments for medical care. The provisions set forth in subrules 75.14(8) to 75.14(12) shall be used when making a determination of the existence of good cause.

75.14(4) Each Medicaid applicant for or recipient of Medicaid member shall assign to the department any rights to medical support and payments for medical care from any other person for which the person can legally make assignment. This shall include rights to medical support and payments for medical care on the applicant's or recipient's member's own behalf or on behalf of any other family member for whom the applicant or recipient member is applying. An assignment is effective the same date the county office enters the eligibility information is entered into the automated benefit calculation system and is effective for the entire period for which eligibility is granted. Support payments not intended for medical support shall not be assigned to the department.

75.14(5) Referrals to the child support recovery unit for Medicaid applicants or recipients members. The county office department shall provide prompt notice to the child support recovery unit whenever assistance is furnished with respect to a child with a parent who is absent from the home or when any member of the eligible group is entitled to support payments.

a. A referral to the child support recovery unit shall not be made when a parent's absence is occasioned solely by reason of the performance of active duty in the uniformed services of the United States. "Uniformed service" means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration, or Public Health Service of the United States.

b. "Prompt notice" means within two working days of the date assistance is approved.

75.14(6) No change.

75.14(7) Notwithstanding subrule 75.14(6), any pregnant woman or previously pregnant woman establishing eligibility under subrule 75.1(28) or 75.1(24) shall not be exempt from the provisions of 75.14(4) and 75.14(5) which require the applicant or recipient member to assign any rights to medical support and payments for medical care and to be referred to the child support recovery unit.

75.14(8) Good cause for refusal to cooperate. Good cause shall exist when it is determined that cooperation in establishing paternity and securing support is against the best interests of the child.

a. The ~~county office~~ income maintenance unit shall determine that cooperation is against the child's best interest when the applicant's or ~~recipient's~~ member's cooperation in establishing paternity or securing support is reasonably anticipated to result in:

(1) to (4) No change.

b. The ~~county office~~ income maintenance unit shall determine that cooperation is against the child's best interest when at least one of the following circumstances exists, and the ~~county office~~ income maintenance unit believes that because of the existence of that circumstance, in the particular case, proceeding to establish paternity or secure support would be detrimental to the child for whom support would be sought.

(1) and (2) No change.

(3) The applicant or ~~recipient~~ member is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish the child for adoption, and the discussions have not gone on for more than three months.

c. and d. No change.

75.14(9) Claiming good cause. Each Medicaid applicant ~~for or recipient of Medicaid~~ member who is required to cooperate with the child support recovery unit shall have the opportunity to claim good cause for refusing to cooperate in establishing paternity or securing support payments.

a. Before requiring cooperation, the ~~county office~~ department shall notify the applicant or ~~recipient~~ member ~~on using~~ Form 470-0169 or 470-0169(S), Requirements of Support Enforcement, of the right to claim good cause as an exception to the cooperation requirement and of all the requirements applicable to a good cause determination. ~~One copy of this form shall be given to the applicant or recipient and one copy shall be signed by the applicant or recipient and the worker and filed in the case record.~~

b. The initial notice advising of the right to refuse to cooperate for good cause shall:

(1) Advise the applicant or ~~recipient~~ member of the potential benefits the child may derive from the establishment of paternity and securing support.

(2) Advise the applicant or ~~recipient~~ member that by law cooperation in establishing paternity and securing support is a condition of eligibility for the Medicaid program.

(3) Advise the applicant or ~~recipient~~ member of the sanctions provided for refusal to cooperate without good cause.

(4) Advise the applicant or ~~recipient~~ member that good cause for refusal to cooperate may be claimed and that if the ~~county office~~ income maintenance unit determines, in accordance with these rules, that there is good cause, the applicant or ~~recipient~~ member will be excused from the cooperation requirement.

(5) Advise the applicant or ~~recipient~~ member that upon request, or following a claim of good cause, the ~~county office~~ income maintenance unit will provide further notice with additional details concerning good cause.

c. When the applicant or ~~recipient~~ member makes a claim of good cause or requests additional information regarding the right to file a claim of good cause, the ~~county office~~ income maintenance unit shall issue a second notice, Form 470-0170, Requirements of Claiming Good Cause. ~~When the applicant or recipient chooses to~~ To claim good cause, the applicant or member shall sign and date Form 470-0170 ~~shall be signed and dated by the client and returned~~ return it to the ~~county office~~ income maintenance unit. This form:

(1) Indicates that the applicant or ~~recipient~~ member must provide corroborative evidence of good cause circumstance and must, when requested, furnish sufficient information to permit the county office to investigate the circumstances.

(2) Informs the applicant or ~~recipient~~ member that, upon request, the ~~county office~~ income maintenance unit will provide reasonable assistance in obtaining the corroborative evidence.

(3) Informs the applicant or ~~recipient~~ member that on the basis of the corroborative evidence supplied and the agency's investigation when necessary, the ~~county office~~ income maintenance unit shall determine whether cooperation would be against the best interests of the child for whom support would be sought.

(4) No change.

(5) Informs the applicant or ~~recipient member~~ that the child support recovery unit may review the ~~county office's income maintenance unit's~~ findings and basis for a good cause determination and may participate in any hearings concerning the issue of good cause.

(6) Informs the applicant or ~~recipient member~~ that the child support recovery unit may attempt to establish paternity and collect support in those cases where the ~~county office income maintenance unit~~ determines that this can be done without risk to the applicant or ~~recipient member~~ if done without the applicant's or ~~recipient's member's~~ participation.

d. The applicant or ~~recipient member~~ who refuses to cooperate and who claims to have good cause for refusing to cooperate has the burden of establishing the existence of a good cause circumstance. Failure to meet these requirements shall constitute a sufficient basis for the ~~county office income maintenance unit~~ to determine that good cause does not exist. The applicant or ~~recipient member~~ shall:

(1) Specify the circumstances that the applicant or ~~recipient member~~ believes provide sufficient good cause for not cooperating.

(2) and (3) No change.

75.14(10) Determination of good cause. The ~~county office income maintenance unit~~ shall determine whether good cause exists for each Medicaid applicant for or ~~recipient of the Medicaid program member~~ who claims to have good cause.

a. The income maintenance unit shall notify the applicant or ~~recipient~~ ~~shall be notified by the county office member~~ of its determination that good cause does or does not exist. The determination shall:

(1) Be in writing.

(2) Contain the ~~county office's income maintenance unit's~~ findings and basis for determination.

(3) Be entered in the case record.

b. The determination of whether or not good cause exists shall be made within 45 days from the day the good cause claim is made. The ~~county office income maintenance unit~~ may exceed this time standard only when:

(1) The case record documents that the ~~county office income maintenance unit~~ needs additional time because the information required to verify the claim cannot be obtained within the time standard, or

(2) No change.

c. When the ~~county office income maintenance unit~~ determines that good cause does not exist:

(1) The applicant or ~~recipient member~~ shall be so notified and be afforded an opportunity to cooperate, withdraw the application for assistance, or have the case closed; and

(2) No change.

d. The ~~county office income maintenance unit~~ shall make a good cause determination based on the corroborative evidence supplied by the applicant or ~~recipient member~~ only after ~~it~~ the income maintenance unit has examined the evidence and found that it actually verifies the good cause claim.

e. ~~Prior to~~ Before making a final determination of good cause for refusing to cooperate, the ~~county office income maintenance unit~~ shall:

(1) and (2) No change.

f. The child support recovery unit may participate in any appeal hearing that results from an applicant's or ~~recipient's member's~~ appeal of an agency action with respect to a decision on a claim of good cause.

g. Assistance shall not be denied, delayed, or discontinued pending a determination of good cause for refusal to cooperate when the applicant or ~~recipient member~~ has specified the circumstances under which good cause can be claimed and provided the corroborative evidence and any additional information needed to establish good cause.

h. The ~~county office income maintenance unit~~ shall:

(1) and (2) No change.

75.14(11) Proof of good cause. The applicant or ~~recipient member~~ who claims good cause shall provide corroborative evidence within 20 days from the day the claim was made. In exceptional cases where the ~~county office income maintenance unit~~ determines that the applicant or ~~recipient member~~ requires additional time because of the difficulty in obtaining the corroborative evidence, the ~~county~~

office income maintenance unit shall allow a reasonable additional period of time upon approval by the worker's immediate supervisor.

a. A good cause claim may be corroborated with the following types of evidence:

(1) to (4) No change.

(5) A written statement from a public or licensed private social agency that the applicant or recipient member is being assisted by the agency to resolve the issue of whether to keep the child or relinquish the child for adoption.

(6) Sworn statements from individuals other than the applicant or recipient member with knowledge of the circumstances which provide the basis for the good cause claim.

b. When, after examining the corroborative evidence submitted by the applicant or recipient member, the county office income maintenance unit wishes to request additional corroborative evidence which is needed to permit a good cause determination, the county office income maintenance unit shall:

(1) Promptly notify the applicant or recipient member that additional corroborative evidence is needed, and

(2) No change.

c. When the applicant or recipient member requests assistance in securing evidence, the county office income maintenance unit shall:

(1) Advise the applicant or recipient member how to obtain the necessary documents, and

(2) Make a reasonable effort to obtain any specific documents which the applicant or recipient member is not reasonably able to obtain without assistance.

d. When a claim is based on the applicant's or recipient's member's anticipation of physical harm and corroborative evidence is not submitted in support of the claim:

(1) The county office income maintenance unit shall investigate the good cause claim when the office believes that the claim is credible without corroborative evidence and corroborative evidence is not available.

(2) Good cause shall be found when the claimant's statement and investigation which is conducted satisfies the county office that the applicant or recipient member has good cause for refusing to cooperate.

(3) No change.

e. The county office income maintenance unit may further verify the good cause claim when the applicant's or recipient's member's statement of the claim together with the corroborative evidence do not provide sufficient basis for making a determination. When the county office income maintenance unit determines that it is necessary, ~~it~~ the unit may conduct an investigation of good cause claims to determine that good cause does or does not exist.

f. When it conducts an investigation of a good cause claim, the county office income maintenance unit shall:

(1) No change.

(2) ~~Prior to~~ Before making the necessary contact, notify the applicant or recipient member so the applicant or recipient member may present additional corroborative evidence or information so that contact with the parent or putative father becomes unnecessary, withdraw the application for assistance or have the case closed, or have the good cause claim denied.

75.14(12) Enforcement without specified relative's cooperation. When the county office income maintenance unit makes a determination that good cause exists, ~~it~~ the unit shall also make a determination of whether or not child support enforcement can proceed without risk of harm to the child or specified relative when the enforcement or collection activities do not involve their participation.

a. ~~Prior to making the determination, the~~ The child support recovery unit shall have an opportunity to review and comment on the findings and basis for the proposed determination and the county office income maintenance unit shall consider any recommendations from the unit.

b. The determination shall be in writing, contain the county office's income maintenance unit's findings and basis ~~or for~~ for the determination, and be entered into the case record.

c. When the county office income maintenance unit excuses cooperation but determines that the child support recovery unit may proceed to establish paternity or enforce support, ~~it~~ the income

maintenance unit shall notify the applicant or ~~recipient~~ member to enable the individual to withdraw the application for assistance or have the case closed.

This rule is intended to implement Iowa Code sections 249A.3 and 249A.4.

ITEM 24. Amend paragraph **76.1(3)“f”** as follows:

f. If an authorized representative signed the application on behalf of an applicant, the signature of the applicant or the responsible person must be on the application before the application can be approved. For FMAP and FMAP-related Medicaid, the signature of ~~each~~ a parent or stepparent in the home must be on the application before the application can be approved.